

AMENDED IN ASSEMBLY JULY 3, 2013

AMENDED IN ASSEMBLY JUNE 18, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 605

**Introduced by Senator Lara
(Coauthor: Senator Steinberg)**

February 22, 2013

An act to amend Section 16428.8 of the Government Code, and to add Section 38561.5 to the Health and Safety Code, relating to greenhouse gases, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 605, as amended, Lara. California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Fund and scoping plan.

(1) The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases.

The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature. Existing law authorizes the Controller to use the moneys in the fund for cash flow loans to the General Fund, as specified. Existing law requires the Department of

Finance, in consultation with the state board and any other relevant state agency, to develop, as specified, a 3-year investment plan for the moneys deposited in the Greenhouse Gas Reduction Fund.

This bill, during the 2013–14 fiscal year, would require the Controller to determine the amount of moneys collected and deposited in the fund by the state board. The bill would appropriate a specified amount of those moneys *that are unencumbered to the State Air Resources Board state board* from the fund to be expended consistent with the act on projects and programs that are located within and benefit disadvantaged communities, as specified, thereby making an appropriation. *The bill would authorize moneys in the fund to be available, upon appropriation by the Legislature, to the state board and administering agencies for administrative purposes related to these provisions.* The bill would prohibit moneys in the fund designated for those specified programs and projects to disadvantaged communities from being transferred or loaned to any other fund *in the 2013–13 fiscal year.*

(2) The California Global Warming Solutions Act of 2006 requires the state board to adopt a statewide greenhouse gas emissions limit, as defined, to be achieved by 2020, equivalent to the statewide greenhouse gas emissions levels in 1990. The act requires the state board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions. The act requires the scoping plan to be updated at least once every 5 years.

This bill would require the state board, when updating the scoping plan, to include specified criteria. The bill would require the state board to submit that specified criteria to the Joint Legislative Budget Committee, as specified. The bill would require the state board, if it has completed an update of the scoping plan prior to January 1, 2014, to further update the scoping plan to meet the criteria and provisions of this bill.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 16428.8 of the Government Code is
- 2 amended to read:
- 3 16428.8. (a) The Greenhouse Gas Reduction Fund, hereafter
- 4 referred to in this article as the fund, is hereby created as a special
- 5 fund in the State Treasury.

(b) Except for fines and penalties, all moneys collected by the State Air Resources Board from the auction or sale of allowances, pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations, shall be deposited in the fund and available for appropriation by the Legislature.

(c) All moneys deposited in the fund shall be appropriated and shall be separately identified in the annual Budget Act. No moneys from the General Fund or any other fund shall be deposited in the fund.

(d) Notwithstanding any other law, the Controller may use the moneys in the fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381.

(e) Any technical amendments made by the State Air Resources Board to the regulations established under Sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations to conform that regulation to this article shall be exempt from the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3) and from the review and approval of the Office of Administrative Law.

(f) (1) During the 2013–14 fiscal year, the month following an auction or sale of allowances, pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations, the Controller shall determine the amount of moneys collected and deposited in the fund by the State Air Resources Board.

(2) Of the *unencumbered* moneys determined by the Controller to be in the fund, an amount not to exceed one hundred twenty-five million dollars (\$125,000,000) for the entire 2013–14 fiscal year is hereby appropriated to the State Air Resources Board.

(3) Subject to paragraph (2) of subdivision (a) of Section 39712 of the Health and Safety Code, of the moneys appropriated pursuant to paragraph (2), the State Air Resources Board shall expend those moneys on a periodic basis on projects and programs that are located within and benefit disadvantaged communities, as defined in Section 39711 of the Health and Safety Code. Through an

1 expedited approval process, the State Air Resources Board shall
2 expend those moneys as quickly as feasible but no later than June
3 30, 2014, in accordance with *existing programs within* the
4 three-year investment plan developed and adopted pursuant to
5 Section 39716 of the Health and Safety Code for the 2013–14 to
6 2015–16 fiscal years, inclusive.

7 (4) *Upon appropriation by the Legislature, moneys in the fund*
8 *shall be available to the State Air Resources Board and to*
9 *administering agencies for administrative purposes in carrying*
10 *out this subdivision.*

11 (5) *This subdivision shall not be construed to interfere with*
12 *Chapter 20 of the Statutes of 2013.*

13 ~~(4)~~

14 (6) Notwithstanding subdivision (d), *unencumbered* moneys in
15 the fund designated for programs and projects pursuant to
16 paragraph (3) shall not be transferred or loaned to any other fund
17 *in the 2013–14 fiscal year.*

18 SEC. 2. Section 38561.5 is added to the Health and Safety
19 Code, to read:

20 38561.5. (a) When updating the scoping plan pursuant to
21 subdivision (h) of Section 38561, the state board shall do all of
22 the following:

23 (1) Prioritize and emphasize measures and actions resulting in
24 greenhouse gas emissions reductions that do both of the following:

25 (A) Create jobs within the state.

26 (B) Reduce copollutants in regions of the state most impacted
27 by toxic and criteria air pollutants.

28 (2) Prioritize and emphasize current regulations and actions,
29 and recommend additional measures and actions that can be
30 implemented beginning no later than December 31, 2015, to
31 achieve the maximum, technologically feasible, and cost-effective
32 reductions in short-lived climate pollutants with high global
33 warming potentials.

34 (3) Limit the use of offsets, ~~to the maximum extent feasible,~~ to
35 those offsets originating and achieved within the state.

36 (4) Include a plan that achieves the greenhouse gas emissions
37 goals established pursuant to Part 3 (commencing with Section
38 38550) to be implemented in the event any regulatory measures
39 implemented and adopted by the state board pursuant to this
40 division are not projected to result in the greenhouse gas emissions

1 reductions necessary to meet the greenhouse emissions goals
2 established pursuant to Part 3 (commencing with Section 38550).

3 (5) Consider the use of special funds authorized to be expended
4 for the purposes of greenhouse gas emissions reductions, including,
5 but not limited to, funds derived from market-based compliance
6 mechanisms, the Electric Program Investment Charge Fund created
7 by Section 25711 of the Public Resources Code, and the Alternative
8 and Renewable Fuel and Vehicle Technology Fund created by
9 Section 44273 for emissions reductions from sources within the
10 state in furtherance of achieving and maintaining the greenhouse
11 gas emissions goals established pursuant to Part 3 (commencing
12 with Section 38550).

13 (b) The state board shall submit the criteria required pursuant
14 to subdivision (a) to the Joint Legislative Budget Committee. If,
15 after 30 days of receipt, the Joint Legislative Budget Committee
16 has not made a finding on the submitted elements, the updated
17 scoping plan shall be deemed concurred.

18 (c) If the scoping plan is updated prior to January 1, 2014,
19 pursuant to subdivision (h) of Section 38561, the state board shall
20 revise the scoping plan to incorporate the requirements detailed
21 in subdivision (a) and shall comply with subdivision (b).

22 (d) For purposes of this section, “offset” means a quantified
23 unit of greenhouse gas emission that is reduced, avoided, or
24 permanently sequestered in a sector not regulated by a
25 market-based compliance mechanism adopted by the state board.